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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT N. JOHNSON,

Plaintiff,

vs.

No. 2:09-cv-2600 MCE JFM

PRITPAL VIRK; RUBY VIRK,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

Presently calendared for hearing on February 25, 2010 is plaintiff's motion for entry of default judgment. Pursuant to Local Rule 230(g), the court has determined that the matter will be submitted on the papers without oral argument. Upon review of the motion and the documents in support and opposition, and good cause appearing therefor, THE COURT MAKES THE FOLLOWING FINDINGS:

The complaint in this matter was served upon defendants Pritpal Virk and Ruby Virk on October 22, 2009, and proof of service was filed November 6, 2009. Cf. Pacific Atlantic Trading Co. v. M/V Main Express, 758 F.2d 1325, 1331 (9th Cir. 1985) (noting that default judgment void without personal jurisdiction). The Clerk of the Court entered default

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2 against both defendants on December 22, 2009. Plaintiff's present motion for entry of default  
3 judgment was served by mail on both defendants.

4           Entry of default effects an admission of all well-pleaded allegations of the  
5 complaint by the defaulted party. Geddes v. United Financial Group, 559 F.2d 557, 560 (9th Cir.  
6 1977). Entry of default judgment is proper where, as in the present case, the facts established by  
7 the default support the causes of action pled in the complaint. The complaint and the affidavits  
8 filed in support of the motion for entry of default judgment also support the finding that plaintiff  
9 is entitled to the relief requested in the prayer for default judgment, which does not differ in kind  
10 from the relief requested in the complaint. Henry v. Sneiders, 490 F.2d 315, 317 & n.2 (9th Cir.  
11 1974). There are no policy considerations to preclude the entry of default judgment of the type  
12 requested. See Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986) (enumerating factors to  
13 be considered).

14           Plaintiff has submitted an affidavit regarding costs. Plaintiff does not seek  
15 attorney's fees or litigation costs. The court finds the amount reasonable.

16           Accordingly, IT IS HEREBY ORDERED that the February 25, 2010 hearing is  
17 vacated; and

18           Furthermore, IT IS HEREBY RECOMMENDED that:

- 19           1. Plaintiff's January 8, 2010 motion for entry of default judgment be  
20 GRANTED;
- 21           2. Judgment be awarded against defendants Pritpal Virk and Ruby Virk in the  
22 amount of \$8,000.00; and
- 23           3. Injunctive relief be granted against defendants requiring a properly-configured  
24 van accessible disabled parking space with an accessible route to an accessible entrance in  
25 conformity with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) as set  
forth in 28 Code of Federal Regulations, Part 36.

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These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: February 17, 2010.

  
UNITED STATES MAGISTRATE JUDGE

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